

## **REMARKS**

### **Amendments to and Status of Claims**

With this paper, claims 13, 16-23, 34, 35 and 37-39 have been amended. Claim 16 is rewritten in independent form.

Support for the amendments can be found throughout the specification (including the claims) as originally filed, e.g., at page 60, lines 18-23; and page 62, lines 7-18; and the original claims.

No new matter has been added.

Claims 13, 16-23, 34, 35, and 37-39 are pending; claims 13, 16-23, 34, and 39 are under examination in the application, and claims 35, 38 and 39 are indicated to be withdrawn from consideration. Applicants request rejoinder and consideration of claims 35, 37 and 38.

The amendment and/or cancellation of claims is without prejudice or disclaimer of the subject matter thereof and was done solely to expedite prosecution of the present application. Applicants reserve the right to pursue the original subject matter of this application in a later-filed application claiming benefit of the instant application, including without prejudice to any determination of equivalents of the claimed subject matter.

Applicants note with appreciation the indication that claims 16-21, 23, and 34 would be allowable if rewritten in independent form. Applicants note that claim 16 has been rewritten in independent form; claims 17-21, which depend (directly or indirectly) from claim 16, are also believed to be allowable.

Reconsideration of the application is requested for at least the reasons discussed herein.

### **Objections to the Claims**

Claims 13 and 22 were objected to for allegedly containing informalities. Applicants disagree. However, without agreeing with the objection, Applicants note that the pending

claims include the language “wherein” instead of parenthetical phrases. In addition, claim 13 as now pending recites that “Ring S<sup>1</sup> is a benzene ring having a substituent represented by the formula: R<sup>11</sup>-E<sup>2</sup>- ”. Applicants contend that the objections have been overcome and should be withdrawn.

#### Rejections under 35 U.S.C. §112, second paragraph

In the Office Action, claims 13, 22, 23 and 39 were rejected as allegedly indefinite. This rejection is traversed.

The Office Action stated that, in claim 13, “[i]t is unclear what the ‘optional’ substituents of Ring R are and in addition, Ring R already has substituents such as Ra and CH<sub>2</sub>CH<sub>2</sub>COOH.” Without agreeing with this rejection, Applicants note that claim 13 as now pending recites that “R is a phenylene group optionally further having substituent(s) selected from the group consisting of a C<sub>1-6</sub> alkyl group, a halogen atom, a C<sub>1-6</sub> alkoxy group and a hydroxy group.” Applicants respectfully contend that this language is clear and is not indefinite.

The Office Action stated that claim 22 was indefinite for reciting that “R<sub>11</sub> (optionally forms a ring together with E<sub>2</sub> and S<sub>1</sub>).” Without agreeing with this rejection, Applicants note that claim 22 as now pending does not recite this language. Applicants respectfully contend that claim 22 is clear and is not indefinite.

Reconsideration and withdrawal of the rejections is proper and the same is requested.

#### Double Patenting Rejection

In the Office Action, claim 13 was provisionally rejected on the ground of nonstatutory obviousness-type double patenting over one or more claims of co-pending application no. 10/580,906. This rejection is traversed.

Without conceding the propriety of this rejection, Applicants request that this issue be held in abeyance. Applicants will address this rejection, if appropriate, when all claims are indicated to be otherwise allowable.

### **CONCLUSION**

For at least the foregoing reasons, Applicants consider that the application is in condition for allowance. Early and favorable consideration of the application is earnestly solicited.

In the event that any extension of time is required, the undersigned conditionally requests any necessary extension. The Director is hereby authorized to charge any deficiency in the fees filed, asserted to be filed or which should have been filed herewith (or with any paper hereafter filed in this application by this firm) to our Deposit Account No. 04-1105, under Reference No. 66530 (46590), Customer No. 21874.

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Respectfully submitted,

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